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February 10, 2012

VIA ECF

The Honorable David N. Hurd
United States District Court
for the Northern District of New York
Alexander Pirnie Federal Bldg.
10 Broad Street
Utica, NY 13501

**Re: Utica Mutual Ins. Co. v. Fireman's Fund Ins. Co.,
No. 6:09-CV-0853 (DNH/TWD)**

Dear Judge Hurd:

On behalf of Utica Mutual Insurance Company, we write to respond to the inquiry in the Court's February 6, Text Order.

That Order provides that Judge Lowe is retiring on February 9, 2012 and, on February 10, 2012, will become affiliated on an "of counsel" basis with the law firm of Bond, Schoeneck & King, PLLC ("BS&K"). According to the Order, Your Honor is "considering directing Mr. Lowe to render advisory opinions on the pending motions" Because of BS&K's representation of Utica Mutual – in the past and upon occasion at the present – the Order asks the parties if they are willing to waive the conflict.

We have discussed this matter with our client and can advise that Utica Mutual is not in a position to waive the conflict.

Respectfully submitted,

/s/Syed S. Ahmad
Syed S. Ahmad

cc: Mary Lopatto
Nancy Monarch
John Finnegan